

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**ERNEST DONALD SHRADER,**

**Plaintiff,**

**v.**

**Civil Action No. 2:06cv77**

**WARDEN WILLIAM S. HAINES,  
AIG, and OFFICER EARL LIGHT,**

**Defendants.**

**ORDER**

It will be recalled that on December 22, 2006, Magistrate Judge Seibert filed his Report and Recommendation, wherein the Plaintiff was directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within ten (10) days after being served with a copy of the Report and Recommendation. On January 4, 2007, Plaintiff filed his Objections to the Magistrate Judge's Recommendation.

Upon examination of the report from the Magistrate Judge, it appears to the Court that the issues raised by the Plaintiff in his Complaint, filed pursuant to 42 U.S.C. §1983, wherein Plaintiff alleges that he fell down steps while being escorted and was refused immediate medical treatment, were thoroughly considered by Magistrate Judge Seibert in his Report and Recommendation. Furthermore, upon careful consideration of the Petitioner's objections, it appears to the Court that the Petitioner has not raised any issues that were not thoroughly considered by Magistrate Judge Seibert in his Report and Recommendation.

Moreover, the Court, upon an independent de novo consideration of all matters now before it, is of the opinion that the Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in this action. Therefore, it is

**ORDERED** that Magistrate Judge Seibert's Report and Recommendation be, and the same hereby is, accepted in whole and that this civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

**ORDERED** that the Plaintiff's Complaint against Warden Haines shall be, and the same hereby is, **DISMISSED with prejudice**. It is further

**ORDERED** that the Plaintiff's Complaint against Officer Earl Light and AIG shall be, and the same hereby is **DISMISSED** without prejudice for failure to state a claim. It is further

**ORDERED** that the Clerk shall enter judgment for the Defendants. It is further

**ORDERED** that, if Plaintiff should desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, Plaintiff may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed in forma pauperis from the United States Court of Appeals for the Fourth Circuit.

ENTER: November 19<sup>th</sup>, 2007

  
United States District Judge